

Remarks

Reconsideration is requested.

The examiner has rejected claims 5 and 6 under 35 U.S.C. 102(b) as being anticipated by Yates (U.S. Patent No. 3,122,857).

Claims 1-4 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Yates in view of Hamaker (U.S. Patent No. 2,683,951).

Claims 5 and 6 have been canceled. Accordingly, the Section 102(b) rejection has been obviated.

Applicant's invention pertains to a method for controlling vertebrate pests that inhabit burrows or tunnels in the ground. The method involves placing a bait station in the ground such that an opening in the bait station is aligned with one of the tunnels. The bait station is then covered with soil, and a bait composition is placed in the bait station for controlling the pests. In a preferred embodiment, the bait station housing includes opposing side walls which each have an opening aligned with one of the tunnels in the ground. In another preferred embodiment, the side wall of the housing further includes an eave above the opening for inhibiting soil from falling into the housing while the bait station is in the ground. This is the subject of applicant's new claim 7. Support for this claim is found in paragraph 13 of applicant's specification and in applicant's Fig. 1. No new matter has been added.

The Yates patent pertains to a rodent exterminating device using a liquid or dry poison. Openings in the end walls of the device enable rodents to enter to feed on the poison. Such device is clearly intended for use above ground. There is no description or suggestion in the patent of applicant's claimed method for burying a bait station under ground and aligning openings in the bait station with one or more tunnels below the surface of the ground.

The Hamaker patent describes an animal trap for catching moles. The trap includes a tubular housing with a spring finger on each end for preventing a mole entering the housing from escaping. The trap is placed in the ground and within a tunnel. After a mole is captured, the trap must be entirely removed from the ground in order to enable the user to remove the mole from the trap. The mole trap is not a bait station.


There is no suggestion in either of the two cited references that their teachings should be combined in order to achieve the method which is claimed herein by applicant. The Yates patent pertains solely to an above-ground bait station, and the Hamaker patent pertains solely to a trap for moles.

Accordingly, applicant submits that the cited references, whether considered alone or in combination, do not teach or suggest applicant's method as claimed herein. Thus, the Section 103(a) rejection of claims 1-4 is unsound and should be withdrawn. Further, the subject of applicant's new claim 7 is

not described in either of the cited references, nor would it be obvious from the teachings of the cited references.

With the cancellation of claims 5 and 6, and the foregoing remarks, it is believed that all of the rejections of the claims have been overcome. Reconsideration and favorable action are courteously solicited.

Respectfully submitted,

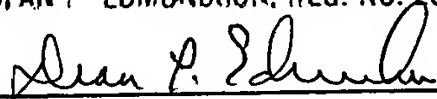


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DATE

May 29, 2004

PO Box 1450, Alexandria, VA 22313-1450.